

**TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE**



**CORRECTED
FISCAL NOTE**

SB 2392 – HB 2693

February 9, 2010

SUMMARY OF BILL: Includes the intentional murder of a pregnant woman in the list of aggravating circumstances that support a sentence of death or life without parole.

ESTIMATED FISCAL IMPACT:

On January 12, 2010, we issued a fiscal note reflecting *an increase in state expenditures of \$43,700/Incarceration* and an Other Fiscal Impact estimating an average of one offender every five years receiving a death sentence. It is estimated that an average of one offender every five years will receive a death sentence. If a death sentence offender serves an average of 20 years before the sentence is carried out, there will be no significant additional incarceration costs for the death-sentenced offender, apart from the cost of the execution. The cost of executing each offender will exceed \$15,000. The cost to the state for trials and appeals from death-sentenced offenders is substantially higher than for other cases. It is estimated that the additional cost of trials and appeals from death sentences will exceed \$750,000 for each case.* After further discussions with the Department of Correction (DOC), the fiscal impact of the bill is as follows:

(CORRECTED)

Increase State Expenditures – Net Impact - \$23,300/Incarceration*

Other Fiscal Impact – It is estimated that an average of one offender every ten years will receive a death sentence. The cost of executing each offender will exceed \$15,000. The cost to the state for trials and appeals from death-sentenced offenders is substantially higher than for other cases. It is estimated that the additional cost of trials and appeals from death sentences will exceed \$750,000 for each case.

Assumptions:

- According to DOC in FY08-09 there were 37 offenders released for murder one offenses with an average time served of 26 years. DOC estimates two additional admissions every ten years with one offender receiving a life sentence (51 years) and the other receiving a death sentence.
- According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. No significant incarceration cost increase will occur due to population growth in this period. The maximum cost in the tenth year, as

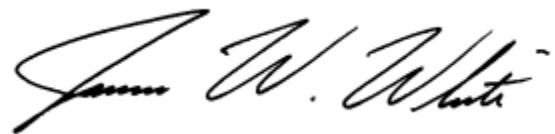
required by Tenn. Code Ann. § 9-4-210, is based on one offender every ten years serving an additional 25 years (an increase from 26 to 51 years) and one offender every ten years receiving a death sentence (a decrease from 25 years to 20.33 years).

- According to DOC, the average operating cost per offender per day for calendar year 2010 is \$59.86. The cost per conviction in the tenth year is \$218,638.65 (\$59.86 x 3,652.50 days). The annualized cost per conviction is \$43,727.73 (0.20 annual number of convictions x 3,652.50 days x \$59.86).
- Since 2000, six offenders have been executed after serving an average of 20.33 years. The sentence for life is a 25-year sentence. If one person receives a death sentence rather than life, that person would serve 4.67 years less (25 years – 20.33 years). The incarceration cost for 4.67 years (1,705.72 days) is \$102,104.40 (\$59.86 x 1,705.72 days). The annualized cost per conviction is \$20,420.88 (0.20 annual number of convictions x 1,705.72 days x \$59.86).
- The net impact of this bill is an increase in state expenditures for incarceration of \$23,306.85 (\$43,727.73 - \$20,420.88).
- The cost of executing an offender will exceed \$15,000.
- The state incurs substantial out-of-pocket expenses in death-sentence trials and appeals. These include costs of appointed attorneys, expert witnesses, investigation, jury sequestration, and related matters. These additional costs are estimated to exceed \$750,000 in each case.
- Any impact on caseloads for the state trial courts can be accommodated within existing judicial resources without an increased appropriation or reduced reversion.

**Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



James W. White, Executive Director

/lsc